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8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

11	JUAN JOSE MARTINEZ-MADERA,)	Civil No. 07 cv 2237 JLS (WMc)
)	
12	Petitioner,)	EX PARTE REQUEST TO HOLD CASE IN
)	ABEYANCE AND ORDER STATUS
13	v.)	REPORT
)	
14	MICHAEL CHERTOFF, Secretary of))	
	Department of Homeland Security, et al.,))	
15	Respondents.)	
16	_____)	

17 On November 26, 2007, Petitioner filed a Petition for Writ of Habeas Corpus and Motion for
 18 Appointment of Counsel, commencing this action. To date, the parties have submitted their briefs for
 19 decision in this case and the matter is currently under submission before this Court. On July 25, 2008,
 20 the Court of Appeals of for the Ninth Circuit issued decisions in Casas-Castrillon v. DHS, — F.3d —,
 21 2008 WL 2902026 (9th Cir. July 25, 2008) and Prieto-Romero v. Clark, — F.3d —, 2008 WL 2853396,
 22 at 3, Fn. 5 (9th Cir. July 25, 2008), which have bearing on this case.

23 According to the Ninth Circuit decisions, a detained petitioner who was subject to mandatory
 24 detention pending administrative proceedings may be entitled to bond review before an IJ pending a
 25 petition for review and a stay of removal. See Prieto-Romero, 2008 WL 2853396; Casas-Castrillon,
 26 2008 WL 2902026. Further, the decisions held that 8 U.S.C. § 1226(a) governs detention pending a
 27 petition for review and stay of removal. It is the Government's position that the Immigration Court and
 28 the BIA have bond review jurisdiction when the Department of Homeland Security ("DHS") exercises
 its bond authority under 8 U.S.C. § 1226(a). See 8 C.F.R. §§ 1003.1(b)(7), 1003.38, 1236.1(d).

1 Therefore, Petitioner may submit a written request to the Immigration Court for a bond hearing pursuant
 2 to Casas-Castrillon in accordance the procedures outlined in the Immigration Court Practice Manual.
 3 See Immigration Court Practice Manual available at <http://www.usdoj.gov/eoir>.

4 Accordingly, in light of Casas and Prieto and ongoing efforts to implement the decisions,^{1/} and
 5 without waiving the Government's defenses in this action, including the Government's position that if
 6 an IJ denies bond or sets a bond that Mr. Martinez-Madera is unable to post, DHS has authority to
 7 continue his detention. See Prieto-Romero, 2008 WL 2853396, at * 6 (holding that, after procedural due
 8 process is satisfied, prolonged detention is authorized if a petitioner faces a "significant likelihood of
 9 removal in the reasonably foreseeable future because the government can repatriate him to [his native
 10 country] if his pending bid for judicial relief . . . proves unsuccessful."), the Government respectfully
 11 requests that this Court hold these proceedings in abeyance and order the filing of a status report in sixty
 12 days to allow Petitioner opportunity to seek and obtain bond review before the Immigration Court and,
 13 in the event of an appeal, the BIA.

14 Dated: August 13, 2008

Respectfully submitted,

16 KAREN P. HEWITT
 United States Attorney

18 s/ Raven M. Norris
 RAVEN M. NORRIS
 Assistant U.S. Attorney
 Attorneys for Respondents
 Email: Raven.Norris@usdoj.gov

28 ^{1/} This Office and the Office of Immigration Litigation in Washington, D.C., have been
 coordinating with the Executive Office for Immigration Review ("EOIR"), which manages the IJs and
 the BIA, concerning implementation of the recent decisions.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUAN JOSE MARTINEZ-MADERA,) Civil No. 07 cv 2237 JLS (WMC)
)
Petitioner,) CERTIFICATE OF SERVICE
v.)
)
MICHAEL CHERTOFF, Secretary,)
Department of Homeland Security; et al,)
)
Respondents.)
_____)

IT IS HEREBY CERTIFIED THAT:

I, Raven M. Norris, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of the Ex Parte Request to hold proceedings in abeyance and order status report on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

None

I hereby certify that I have caused to be mailed the foregoing, by the United States Postal Service, to the following non-ECF participants on this case:

Juan Jose Martinez-Madera
A14-647-093
ICE El Centro Detention Center
1115 N. Imperial Ave.
El Centro, CA 92243

the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 13, 2008

s/ Raven M. Norris
RAVEN M. NORRIS